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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/851,645 | 05/09/2001 | David Frederick Bantz | YOR920010277US1 | 3595 |

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| EXAMINER | |
|---|---|
| BARQADLE, YASIN M | |
| **ART UNIT** | **PAPER NUMBER** |
| 2153 | |

DATE MAILED: 05/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 09/851,645 | BANTZ ET AL. | |
| | Examiner | Art Unit | |
| | Yasin M. Barqadle | 2153 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *December 10, 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-52* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-52* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

## Response to Amendment

1. The amendment filed on December 10, 2004 has been fully considered but are not deemed to be persuasive.

- Claims 1,3,4,14,16-17,26,28-29,36,41-42,51 and 52 were amended.
- Claims 1-52 are presented for examination.

## Response to Arguments

2. In response to applicant's arguments towards claim 1 in the last paragraph of page 18 to line 5 of page 19,that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., Hubbard done not teach having subscription information of a subscriber that identifies what services will be provided to the customer system) are not recited in claim 1. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to applicant's arguments in page 18, first paragraph that "Hubbard fails to teach a method of providing a

subscription computing service to a subscriber computing system." Examiner, agree with the Applicant's assessment of Hubbard's reference in the last paragraph of page 18, where Applicant states that "Hubbard teaches using distributed device connected together to provide process capabilities (subscription computing services) in response to requests from third party customer systems (subscribers). Additionally, Hubbard teaches identifying the capabilities of the distributed devices and the aggregation of these capabilities to accomplish processing, storage, broadcasting or desired project objective (col. 4, lines 18-28; col. 5, lines 11-35).

In response to applicant's arguments in page 21, first paragraph that "Hubbard does not teach initiating the subscription computing service based on subscription computing information and determining if one or more spare resources are available by requesting system operation information from the subscriber computing system." Examiner contends that Hubbard teaches workload and tasks are sent clients based on the determination of the relative capabilities (processing power, disk storage capacity, communication types, etc) of the client systems. Depending upon the workload project, results are provided to customers (subscribers) col. 6, lines 22-61; col. 7, lines 10-50. Hubbard further teaches a capability vector database that

keeps track of client systems and their capabilities and col. 16, lines 10-36).

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless -
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1-5,7-10,12-18,20-23,25-30,32-35,37-43,45-48 and 50-52 are rejected under 35 U.S.C. 102(e) as being anticipated by Hubbard USPN 6654783).

As per claim 1, Hubbard teaches a method of providing a subscription computing service (fig. 1A) to a subscriber computing system (fig.1, client system 108,110 and 112), comprising:

initiating the subscription computing service based on subscription computing information (workload and tasks are sent clients based on the determination of the relative capabilities of the client systems. Depending upon the workload project results are provided to customers (subscribers) col. 6, lines 22-61; col. 7, lines 10-50 and col. 16, lines 10-36);

determining (relative capabilities of the client system is determined) if one or more spare resources are available by requesting system operation information from the subscriber computing system [capabilities such as processing power, disk storage capacity, communication types and other capabilities that are available within the client system col. 7, lines 1-9 and col. 7, lines 46-62 col. 8, lines 1- 11 and col. 16, lines 10-36];

allocating a portion of the one or more spare resources if one or more spare resources are available [client systems allow its capabilities to be utilized by the distributed processing system col. 5, lines 11-35 and col. 7, lines 1-9]; and issuing an instruction to the subscriber computing system to perform at least one operation using the allocated portion of the one or more spare resources to thereby provide the subscription computing service based on subscription computing information [workloads to be performed are selected for client systems. The workloads are controlled through an operational code. A capability vector database keeps track client systems and their capabilities col. 7, lines 1-13; col. 7 lines 63 to col. 8, line 11 and col. 16, lines 10-36].

As per claim 2, Hubbard teaches the method of claim 1, further comprising receiving a command from a human operator to initiate the subscription computing service, wherein the steps of determining and issuing are performed in response to receiving the command to initiate the subscription computing service [col. 7, lines 1-32 and col. 110, lines 15-33].

As per claim 3, Hubbard teaches the method of claim 1, wherein the subscription computing information is maintained in

subscription services database [col. 15, lines 63-66 and col. 16, lines 10-36].

As per claim 4, Hubbard teaches the method of claim 1, wherein subscription computing information of a subscriber identifies services will be provided to a subscriber [col. 4, lines 18-28; col. 5, lines 11-35 and col. 10, lines 38-50 col. 16, lines 10-36].

As per claim 5, Hubbard teaches the method of claim 1, wherein the subscriber computing system includes a plurality of subscriber computing devices (fig.1A, client system 108,110 and 112), and wherein determining if one or more spare resources are available in the subscriber computing system includes requesting operating information from the plurality of subscriber computing devices [col. 7, lines 1-32 and col. 10, lines 38-64].

As per claim 7, Hubbard teaches the method of claim 1, further comprising storing information identifying the allocation of the portion of the one or more spare resources and the at least one operation [col. 6, line 61 to col.7, line 13].

As per claim 8, Hubbard teaches the method of claim 1, wherein the one or more spare resources includes at least one of spare data storage and spare computation cycles [col. 5. lines 24-44].

As per claim 9, Hubbard teaches the method of claim 1, wherein the subscriber computing system includes a plurality of subscriber computing devices (fig. 1A and fig. 8) and wherein the subscription computing service is data backup from a first subscriber computing device of the plurality of subscriber computing devices to a second subscriber computing device of the plurality of subscriber computing devices [col. 19. lines 6-33].

As per claim 10, Hubbard teaches the method of claim 1, wherein the at least one operation includes reading data from a computing system of another subscriber and writing the data to the portion of the one or more spare resources [col. 19. lines 6-45].

As per claim 12, Hubbard teaches the method of claim 1, wherein the at least one operation includes sending work from a computing system of another subscriber to the one or more spare resources [col. 19. lines 6-45].

As per claim 13, Hubbard teaches the method of claim 1, wherein the subscriber computing system includes a first subscriber computing system and a second subscriber computing system, wherein the first subscriber computing system is operated by a first subscriber and the second computing system is operated by a second subscriber different from the first subscriber (fig. 1A and fig. 8), and wherein the subscription computing service includes at least one of backing up data from the first subscriber computing system to one or more spare resources of the second subscriber computing system and sending work from the first subscriber computing system to one or more spare resources of the second subscriber computing system [col. 6, line 55 to col. 7, line 13 and 19. lines 6-45].

As per claim 14, Hubbard teaches a method of providing a subscription computing service (fig. 1A) to a subscriber computing system (fig. 1A, clients 108,110 and 112), comprising:

initiating the subscription computing service based on subscription computing information (workload and tasks are sent clients based on the determination of the relative capabilities of the client systems. Depending upon the workload project results are provided to customers (subscribers) col. 6, lines 22-61; col. 7, lines 10-50 and col. 16, lines 10-36);

determining if a resource of a subscriber computing device is underutilized by requesting system operation information form subscriber computing system [col. 5, lines 11-35 col. 6, lines 28-31 and col. 7, lines 1-9; col. 7, lines 46-62; col. 8, lines 1- 11 and col. 16, lines 10-36]; and

issuing an instruction to the subscriber computing device to perform at least one subscription computing service operation using the resource if the resource is determined to be underutilized, to thereby provide the subscription computing service based on subscription computing information [workloads to be performed are selected for client systems. The workloads are controlled through an operational code. A capability vector database keeps track client systems and their capabilities col. 7, lines 1-13; col. 7 lines 63 to col. 8, line 11 and col. 16, lines 10-36].

As per claim 15, Hubbard teaches the method of claim 14, further comprising receiving a command from a human operator to initiate the subscription computing service, wherein the steps of determining and issuing are performed in response to receiving the command to initiate the subscription computing service [col. 7, lines 1-32 and col. 110, lines 15-33].

As per claim 16, Hubbard teaches the method of claim 14, wherein the subscription computing information is maintained in subscription services database [col. 15, lines 63-66 and col. 16, lines 10-36].

As per claim 7, Hubbard teaches the method of claim 14, wherein subscription computing information of a subscriber identifies services will be provided to a subscriber [col. 4, lines 18-28; col. 5, lines 11-35 and col. 10, lines 38-50 col. 16, lines 10-36].

As per claim 18, Hubbard teaches the method of claim 14, wherein the subscriber computing system includes a plurality of subscriber computing devices, and wherein determining if a resource of a subscriber computing device in the subscriber computing system is underutilized includes requesting operating information from the plurality of subscriber computing devices [col. 7, lines 1-32 and col. 10, lines 38-58].

As per claim 20, Hubbard teaches the method of claim 14, further comprising storing information identifying the resource and the at least one operation [col. 6, line 61 to col.7, line 13].

As per claim 21, Hubbard teaches the method of claim 14, wherein the resource includes at least one of spare data storage and spare computation cycles [col. 5. lines 24-44].

As per claim 22, Hubbard teaches the method of claim 14, wherein the subscriber computing system includes a plurality of subscriber computing devices and wherein the subscription computing service is data backup from a source subscriber computing device of the plurality of subscriber computing devices to the subscriber computing device [col. 19. lines 6-33].

As per claim 23, Hubbard teaches the method of claim 14, wherein the at least one subscription computing service operation includes reading data from a computing system of another subscriber and writing the data to the portion of the one or more spare resources [col. 19. lines 6-45].

As per claim 25, Hubbard teaches the method of claim 14, wherein the at least one subscription computing service operation includes sending work from a computing system of another subscriber to the subscriber computing device [col. 19. lines 6-45].

As per claims 26 and 39, Hubbard teaches an apparatus for proving a subscription computing service to a subscriber computing system (clients 108, 110 and 112), comprising:

a controller (204, fig. 3A), and

a memory (308, fig. 3A) coupled to the controller, wherein the controller initiating the subscription computing service based on subscription computing information (col. 6, lines 22-61; col. 7, lines 10-50 and col. 16, lines 10-36), determines if one or more spare resources are available by requesting system operation information from the subscriber computing system (col. 10, lines 38-50), allocates a portion of the one or more spare resources if one or more spare resources are available (col. 10, lines 59-66), and issues an instruction to the subscriber computing system to perform at least one operation using the allocated portion of the one or more spare resources, based on instructions stored in the memory to thereby provide the subscription computing service based on subscription computing information [workloads to be performed are selected for client systems. The workloads are controlled through an operational code. A capability vector database keeps track client systems and their capabilities col. 7, lines 1-13; col. 7 lines 63 to col. 8, line 11 and col. 16, lines 10-36].

As per claims 27 and 40, Hubbard teaches the invention, wherein the controller receives a command from a human operator to initiate the subscription computing service, and wherein the controller determines if one or more spare resources are available, allocates a portion of the one or more spare resources, and issues an instruction to the subscriber computing system in response to receiving the command to initiate the subscription computing service [col. 7, lines 1-32 and col. 110, lines 15-33].

As per claims 28 and 41, Hubbard teaches the method of claim 1, wherein the subscription computing information is maintained in subscription services database [col. 15, lines 63-66 and col. 16, lines 10-36].

As per claims 29 and 42, Hubbard teaches the method of claim 1, wherein subscription computing information of a subscriber identifies services will be provided to a subscriber [col. 4, lines 18-28; col. 5, lines 11-35 and col. 10, lines 38-50 col. 16, lines 10-36].

As per claims 30 and 43, Hubbard teaches the invention, wherein the subscriber computing system includes a plurality of subscriber computing devices, and wherein the controller determines if one or more spare resources are available in the subscriber computing system by requesting operating information from the plurality of subscriber computing devices [col. 7, lines 1-32 and col. 10, lines 38-58].

As per claims 32 and 45, Hubbard teaches the invention, further comprising a storage device coupled to the controller, wherein the storage device stores information identifying the allocation of the portion of the one or more spare resources and the at least one operation [col. 6, line 61 to col.7, line 13].

As per claims 33 and 46, Hubbard teaches the invention, wherein the one or more spare resources includes at least one of spare data storage and spare computation cycles [col. 5. lines 24-44].

As per claims 34 and 47, Hubbard teaches the invention, wherein the subscriber computing system includes a plurality of subscriber computing devices and wherein the subscription computing service is data backup from a first

subscriber computing device of the plurality of subscriber computing devices to a second subscriber computing device of the plurality of subscriber computing devices [col. 19. lines 6-33].

As per claims 35 and 48, Hubbard teaches the invention, wherein the at least one operation includes reading data from a computing system of another subscriber and writing the data to the portion of the one or more spare resources [col. 19. lines 6-45].

As per claims 37 and 50, Hubbard teaches the invention, wherein the at least one operation includes sending work from a computing system of another subscriber to the one or more spare resources [col. 19. lines 6-45].

As per claims 38, Hubbard teaches the invention, wherein the subscriber computing system includes a first subscriber computing system and a second subscriber computing system (fig.1A), wherein the first subscriber computing system is operated by a first subscriber and the second computing system is operated by a second subscriber different from the first subscriber, and wherein the subscription computing service includes at least one of backing up data from the first

subscriber computing system to one or more spare resources of the second subscriber computing system and sending work from the first subscriber computing system to one or more spare resources of the second subscriber computing system [col. 6, line 55 to col. 7, line 13 and 19. lines 6-45].

Regarding claims 51 and 52, these are computer program product claims with similar limitations as independent claims 1, 14 and 26 above. Therefore, they are rejected with similar rationale.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

1. Claims 6, 19, 31 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hubbard USPN (6654783) in view of Lettvin USPN (5559960).

Regarding claims 6, 19, 31 and 44, although Hubbard shows substantial features of the claimed invention as explained in the corresponding independent claims, he does not explicitly show writing data to a hidden partition of a storage device. Nonetheless, this feature is well known in the art and would have been an obvious modification of the system disclosed by Hubbard, as evidenced by Lettvin USPN. (5559960).
In analogous art, Lettvin whose invention is a system that provides a hidden partition for a computer program, discloses writing data to a hidden partition of a storage device. [Col. 3, lines 25-37]. Giving the teaching of Lettvin, a person of ordinary skill in the art would have readily recognized the desirability and the advantage of modifying Hubbard by employing the system of Lettvin so that programs and information stored in the hidden partition are kept in a secure storage [Col. 3, lines 31-51].

2. . Claims 11, 24, 36 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hubbard USPN (6654783) in view of Doyle USPN (6009455).

Regarding claims 11, 24, 36 and 49, although Hubbard shows substantial features of the claimed invention as explained in

the corresponding independent claims, he does not explicitly show encrypting a data.

Nonetheless, this feature is well known in the art and would have been an obvious modification of the system disclosed by Hubbard, as evidenced by Doyle USPN. (6009455).

In analogous art, Doyle whose invention is a distributed computation utilizing idle networked computers, discloses a system for encrypting data (file storage) of the client computers in the distributed network. [Col. 11, lines 7-11].

Giving the teaching of Doyle, a person of ordinary skill in the art would have readily recognized the desirability and the advantage of modifying Hubbard by employing the system of Doyle in order to maximize the security of the data transmitted over the network and to increase the integrity and confidentiality of the data.

**Conclusion**

1. **ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action

is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

The prior made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yasin Barqadle whose telephone number is 571-272-3947. The examiner can normally be reached on 9:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Burgess can be reached on 571-272-3949. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

Yasin Barqadle

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